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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/675,928

09/29/2000

Bret S. Hildebran

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06/28/2005

Allen-Bradley Company
John J Horn Esq
Patent Department 704P Floor 8 T 29
1201 South Second Street
Milwaukee, WI 53204

EXAMINER

FAN, CHIEH M

ART UNIT

PAPER NUMBER

2638

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/675,928

Applicant(s)

HILDEBRAN ET AL.

Examiner

Chieh M. Fan

Art Unit

2638

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

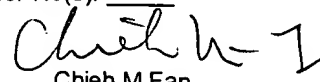
8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See continuation sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


Chieh M Fan
Primary Examiner
Art Unit: 2638

Response to Arguments

1. Applicant's arguments filed 6/6/05 have been fully considered but they are not persuasive.

The applicants again argue that the references DiCarlo and Husted do not teach the limitation " ... a module operatively connected to the communications link, the module having an activation interval for controlling periodic activation relative to at least one of an input and an output thereof; wherein the module is programmed to synchronize the activation interval thereof relative to the coordinated system time base value."

With respect to the DiCarlo reference

The applicants argue that *the activation interval as claimed enables delay of sampling by a module until a coordinated system time value reaches an integer multiple of a sampling interval internal to the module. In contrast to synchronization of an internal sampling interval with a coordinate system time by way of an activation interval, DiCarlo discloses synchronization of a module by way of an internal clock associated with a disparate module. ... Although DiCarlo may teach synchronization of modules with respect to a coordinated system time, the manner by which DiCarlo achieves such synchronization is in stark contrast to the claimed invention.*

Response --- DiCarlo teaches that the modules 14a and 14b are programmed to start the sampling at a common CST value (see col. 6, lines 2-7). Therefore, DiCarlo does not only teach synchronization of the modules with respect to the CST, but also

teach that, in each module, the starting of sampling is executed at the CST value sometime in the future. That is, the sampling of the module is delayed until the CST value. Since the starting of sampling is synchronized to the CST value, DiCarlo's teaching reads on the broadly claimed "synchronize the activation interval thereof relative to the coordinated system time base value."

With respect to the Husted reference

The applicants argue that Husted et al. *discloses an industrial controller that transmits a time conditional command, with an execution time value T , to at least two I/O modules on a communication link. (See Col. 2, Lines 17-32). Such I/O modules are programmed to perform predetermined control actions only after receiving the time conditional commands but not until a system time value has attained a predetermined mathematical relationship to T . (Id.). Thus, Husted et al. does not disclose a module having an interval to control periodic activation relative to an output. Rather, the mathematical relationship between T and the system time value activates the performance of the control actions. Since the mathematical relationship is determined externally from the module of Husted et al. and transmitted from a central source, it is a system-wide aspect that emanates from a single industrial controller. Hence, the cited reference does not provide for a module within the system having an activation interval. In addition, the cited reference discloses such control actions as being relative to a time conditional command, but not relative to an output, as in the claimed invention. Husted et al. does not teach or suggest a module having an activation interval for controlling a periodic activation relative to an output.*

Response --- The applicants argue that Husted teaches that I/O modules are programmed to perform predetermined control actions only after receiving the time conditional commands but not until a system time value has attained a predetermined mathematical relationship to T, and then conclude that Husted does not teach a module having an interval to control periodic activation relative to an output. It is not clear how the applicants draw to such conclusion because it is not clear what exactly the applicants consider as "output". The applicants are reminded that the examiner is entitled to give the broadest reasonable interpretation to the language of the claims. The examiner is not limited to the applicant's definition which is not specifically set forth in the claims. See *In re Tanaka et al.*, 193 USPQ 139, (CCPA) 1977. Further, the applicants are also reminded the claim reads "the module having an activation interval for controlling periodic activation relative to at least one of an input and an output thereof", not only "relative to an output" as argued by the applicants. Since the claim only broadly recites an input and an output without specifying any details on the input and output, such limitation is subjected to the broadest reasonable interpretation. As the operation of sampling of Husted inherently involves an input and an output, i.e., sampling an input and producing a sampled output, the operation of sampling itself meets the claimed limitation. Further, as stated by the applicants above, the control action of Husted is relative to a time conditional command. The time conditional command may also at least reads on the claimed "input". Further, the CST signal provided to the module is also another "input".